

REMARKS

Claims 1, 8-10, 17-20, 23, 24, 28-33 and 35-105 are currently pending. All of these claims were rejected in a Final Office Action mailed on August 15, 2008. Claim 1 is amended herein to further clarify the claimed invention. The specification is amended herein to provide a cross-reference to the parent application. The drawings are amended herein to replace the previously filed informal drawings with formal drawings. No new matter was added by way of these amendments. No claims are cancelled. After entry of the instant response to the Final Office Action, Claims 1, 8-10, 17-20, 23, 24, 28-33 and 35-105 will be pending.

Request for withdrawal of finality of Office Action

The present Office Action mailed on August 15, 2008 rejected independent Claim 52 and its dependent Claims 53-63 under 35 U.S.C. 103(a) as being unpatentable over Danieli et al., U.S. Patent No. 7,240,093 B1 (hereafter "Danieli") in view of Beuk et al., U.S. Patent No. 5,774,673 (hereafter "Beuk"). The previous Office Action mailed on February 5, 2008 rejected these claims under 35 U.S.C. 102(e) as being anticipated by Danieli. Applicants did not amend Claims 53-63 in their response to the February 5, 2008 Office Action. Thus, the August 15, 2008 Office Action introduced a new ground of rejection neither necessitated by Applicants' amendment of the claims, nor based on information submitted in an information disclosure statement. Given this, the final rejection of these claims is improper (see MPEP § 706.07(a)). Applicants request that the finality of the present Office Action be withdrawn and that the amendments described in this paper be entered, in accordance with MPEP § 706.07(e).

Further, the August 15, 2008 Office Action rejected other claims without addressing every claim limitation. Specifically, in the amendment dated May 5, 2008, the Applicants amended Claim 17 to add "wherein the data sent from the inviter game client and included in the routed message further comprises a command line and a registry entry for the invitee messenger client to invoke the game client and connect to the game server." In its rejection of Claim 17 and its dependent claims, August 15, 2008 Office Action addressed the "command line" element but did not address the

“registry entry” element. Similarly, the Office Action did not address every claim element in its rejection of independent Claims 28, 33, 35, 38, 76, 86, and 96 and their dependent claims. It is requested that the finality of the present Office Action be withdrawn and a new, non-final Office Action be provided which corrects these omissions.

Claim Rejections - 35 U.S.C. § 103

As discussed herein, Claims 1, 8-10, 17-20, 23-24, 28-33, 35-105 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Danieli in view of Beuk.

The Beuk reference does not suggest the claimed “command line executable” of amended Claim 1. Rather, the Beuk reference describes an apparatus receiving a message “specifying which application is being activated” (col. 2, lines 65-66), where the application executed by the receiving apparatus may differ from the application specified in the message. (col. 13, lines 43-54, col. 3, lines 1-4). Further, Beuk’s receiving apparatus determines “which local application corresponds to the identified application.” (col. 13, lines 44-45). The Beuk apparatus also determines whether the application “needs to be activated”. (col. 3, lines 4-5). Thus, the Beuk reference describes an apparatus which processes the received data prior to executing an application, instead of executing a received command line executable such as that described in amended Claim 1.

Further, the Beuk reference does not suggest or make obvious data enabling a client to “connect to the game server” as previously claimed in amended Claim 1. Rather, the Beuk reference describes apparatuses running applications communicating with one another via a common communications channel (col. 3, lines 5-16), where “[e]ach apparatus is equivalent (not unique) with regard to the communication aspects.” (col. 3, lines 20-26). Thus, Beuk’s apparatus does not operate as a dedicated server, and the Beuk reference does not suggest connecting to a server as claimed in amended Claim 1. For at least these reasons, amended Claim 1 is non-obvious in light of the suggested combination of Danieli and Beuk. However, to expedite prosecution and further clarify the distinction between the claimed invention and the cited prior art, Claim 1 has been amended herein. Specifically, the amendment to Claim 1 further clarifies the contents of data

transferred between an inviter's game client and an invitee's messenger client. Support for this amendment can be found throughout the application as originally filed, including on page 3 at lines 31-32, on page 10 at lines 21-30, and in Figure 5.

In contrast to amended Claim 1, the Beuk reference does not teach a message including data comprising "a description of the game server." Although the Beuk reference may describe an apparatus receiving a message specifying which application is being activated, it does not suggest that the message includes a server description. Rather, instead of the claimed communication with a particular server, the Beuk reference describes that each application direct its communications to a common communications channel corresponding to the application. (col. 3, lines 5-8). Further, the Beuk reference describes that different applications may be associated with different, unique communications channels (col. 5, line 64 - col. 6, line 11), and that the apparatuses themselves determine "which communication channel corresponds to the application." (col. 3, lines 5-8). In this way, the Beuk reference teaches away from and does not suggest that the received data includes a description of the game server to receive communications, as taught by amended Claim 1. For at least these reasons, amended Claim 1 is non-obvious in view of the suggested combination of Danieli and Beuk. Accordingly, withdrawal of the rejection of Claim 1 under 35 U.S.C. § 103(a) is requested.

Independent Claims 17, 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96 claim similar, albeit different, elements to those of amended Claim 1. Therefore, for at least the reasons discussed herein, these claims are also non-obvious in view of the suggested combination of Danieli and Beuk. Accordingly, withdrawal of the rejection of Claims 17, 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96 under 35 U.S.C. § 103(a) is also requested.

So far as Claims 8-10, 18-20, 23-24, 29-32, 36-37, 39, 41-51, 53-63, 65-75, 77-85, 87-95 and 97-105 respectively depend from amended independent Claim 1 and independent Claims 17, 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96, the remarks presented herein apply to dependent Claims 8-10, 18-20, 23-24, 29-32, 36-37, 39, 41-51, 53-63, 65-75, 77-85, 87-95 and 97-105 as well. Thus, it is submitted that these claims also are non-obvious in view of the suggested combination of Danieli

and Beuk. Accordingly, withdrawal of the rejections to Claims 8-10, 18-20, 23-24, 29-32, 36-37, 39, 41-51, 53-63, 65-75, 77-85, 87-95 and 97-105 under 35 U.S.C. § 103(a) is also requested.

Further, as discussed above, the Final Office Action rejected Claims 17-20, 23-24, 28-33, 35-39 and 76-105 without addressing every claim limitation. Thus, it is requested that the finality of the present Office Action be **withdrawn** and a new, non-final Office Action be provided which corrects these omissions.

Double Patenting Rejections

Claims 1, 17 and 33 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1 and 13 of Kirmse et al., U.S. Patent No. 6,699,125 (hereafter “Kirmse”) in view of Beuk.

The Beuk reference does not suggest the claimed “command line” limitation of amended Claim 1 and Claim 17. Instead, as discussed herein with regard to amended Claim 1, the Beuk reference describes an apparatus that receives a message specifying an application, then processes that message to determine which local application to execute and whether to execute it. This is in contrast to both amended Claim 1 and Claim 17, which teach data that comprises a command line. Further, the Beuk reference does not suggest data comprising a “registry entry”, as claimed in Claims 17 and 33. Additionally, as stated in the Office Action, Claims 1 and 13 of the Kirmse reference do not disclose data comprising a command line. Claims 1 and 13 of the Kirmse reference also do not disclose data comprising a registry entry. For at least these reasons, Claims 1, 17 and 33 are non-obvious in view of the suggested combination of Kirmse and Beuk. Accordingly, withdrawal of these rejections is requested.

Conclusion

In view of the above amendment, the applicants' representative believes the pending application is in condition for allowance.

Docket No.: 08226/1203348-US2

Respectfully submitted,

By /john w branch/
John W. Branch
Registration No.: 41,633
DARBY & DARBY P.C.
7 World Trade Center
250 Greenwich St.
New York, NY 10007-0042
(206) 262-8906
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant